

House File 2290 - Introduced

HOUSE FILE 2290

BY BEST

A BILL FOR

1 An Act relating to the investment of certain public funds in
2 companies that are owned or controlled by Chinese military
3 or government services.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 12.8, subsection 1, Code 2022, is amended
2 to read as follows:

3 1. The treasurer of state shall invest or deposit, subject
4 to chapters 12F, 12H, and 12J, and 12K and as provided by law,
5 any of the public funds not currently needed for operating
6 expenses and shall do so upon receipt of monthly notice from
7 the director of the department of administrative services of
8 the amount not so needed. In the event of loss on redemption
9 or sale of securities invested as prescribed by law, and if
10 the transaction is reported to the executive council, neither
11 the treasurer nor director of the department of administrative
12 services is personally liable but the loss shall be charged
13 against the funds which would have received the profits or
14 interest of the investment and there is appropriated from the
15 funds the amount so required.

16 Sec. 2. NEW SECTION. 12K.1 Definitions.

17 As used in this chapter, unless the context otherwise
18 requires:

19 1. "*Company*" means a sole proprietorship, organization,
20 association, corporation, partnership, joint venture, limited
21 partnership, limited liability partnership, limited liability
22 company, or other entity or business association, including
23 all wholly owned subsidiaries, majority-owned subsidiaries,
24 parent companies, or affiliates of such entities or business
25 associations, that exists for profit-making purposes.

26 2. "*Direct holdings*" in a company means all securities of
27 a company held directly by the public fund or in an account or
28 fund in which the public fund owns all shares or interests.

29 3. "*Indirect holdings*" in a company means all securities
30 of a company held in an account or fund managed by one or more
31 persons not employed by the public fund, in which the public
32 fund owns shares or interests together with other investors not
33 subject to the provisions of this chapter. Indirect holdings
34 include but are not limited to mutual funds, fund of funds,
35 private equity funds, hedge funds, and real estate funds.

1 4. "*Prohibited company*" means a company that is owned
2 or controlled by Chinese military or government services,
3 including but not limited to the people's liberation army
4 of China or the communist party of China, and that has been
5 sanctioned in any way by the United States government.

6 5. "*Public fund*" means the treasurer of state, the state
7 board of regents, the public safety peace officers' retirement
8 system created in chapter 97A, the Iowa public employees'
9 retirement system created in chapter 97B, the statewide fire
10 and police retirement system created in chapter 411, or the
11 judicial retirement system created in chapter 602.

12 6. "*Scrutinized company*" means any company that is owned or
13 controlled by Chinese military or government services.

14 Sec. 3. NEW SECTION. **12K.2 Identification of companies —**
15 **notice.**

16 1. *a.* Within sixty days following the effective date of
17 this Act, a public fund shall identify or have identified all
18 scrutinized companies in which the public fund has direct or
19 indirect holdings and shall create and make available to the
20 public a scrutinized companies list for that public fund.
21 The public fund shall review and update, if necessary, the
22 scrutinized companies list on a quarterly basis thereafter.

23 *b.* In identifying or having identified scrutinized
24 companies, the public fund may review and rely, in the best
25 judgment of the public fund, on publicly available information
26 and other information that may be provided by nonprofit
27 organizations, research firms, international organizations, and
28 government entities. The public fund may also contact asset
29 managers and institutional investors for the public fund to
30 identify scrutinized companies based upon industry-recognized
31 lists of such companies that the public fund may have indirect
32 holdings in.

33 *c.* The Iowa public employees' retirement system, acting
34 on behalf of the system and other public funds subject to
35 this section, may develop and issue a request for proposals

1 for third-party services to complete the identification of
2 scrutinized companies and the compilation of a scrutinized
3 companies list. The request for proposals may request bids for
4 optional services related to this purpose, including but not
5 limited to provision of notice of such scrutinized companies
6 as required in subsection 2. The Iowa public employees'
7 retirement system shall consult with all other public funds
8 regarding the development of the request for proposals, however
9 selection of a successful proposal and the final scope of
10 services to be provided shall be determined only by those
11 public funds that have agreed to utilize the third-party
12 services. If more than one public fund decides to utilize the
13 third-party services, the participating public funds shall
14 equally share the costs of such services.

15 2. For each company on the scrutinized companies list in
16 which a public fund has direct or indirect holdings, the public
17 fund shall send or have sent a written notice informing the
18 company of the requirements of this chapter. The public fund
19 or its representative shall continue to provide such written
20 notice on an annual basis if the company remains a scrutinized
21 company.

22 Sec. 4. NEW SECTION. 12K.3 Divestment.

23 1. A public fund shall not acquire publicly traded
24 securities of a prohibited company.

25 2. a. A public fund shall sell, redeem, divest, or withdraw
26 all publicly traded securities of a prohibited company no later
27 than one hundred eighty days following the date the company
28 becomes a prohibited company.

29 b. This subsection shall not be construed to require the
30 premature or otherwise imprudent sale, redemption, divestment,
31 or withdrawal of an investment, but such sale, redemption,
32 divestment, or withdrawal shall be completed as provided by
33 this subsection.

34 Sec. 5. NEW SECTION. 12K.4 Reports.

35 1. Each public fund shall, within thirty days after the

1 scrutinized companies list is created or updated as required by
2 section 12K.2, make the list available to the public.

3 2. On October 1, 2022, and each October 1 thereafter, each
4 public fund shall make available to the public, and file with
5 the general assembly, an annual report covering the prior
6 fiscal year that includes all of the following:

7 a. The scrutinized companies list as of the end of the
8 fiscal year.

9 b. A summary of all written notices sent as required by
10 section 12K.2 during the fiscal year.

11 c. All investments sold, redeemed, divested, or withdrawn as
12 provided in section 12K.3 during the fiscal year.

13 Sec. 6. NEW SECTION. 12K.5 Legal obligations.

14 With respect to actions taken in compliance with this
15 chapter, including all good-faith determinations regarding
16 companies as required by this chapter, the public fund
17 shall be exempt from any conflicting statutory or common law
18 obligations, including any such obligations with respect to
19 choice of asset managers, investment funds, or investments for
20 the public fund's securities portfolios.

21 Sec. 7. NEW SECTION. 12K.6 Applicability.

22 The requirements of sections 12K.2, 12K.3, and 12K.4 shall
23 not apply if the United States Congress or president of the
24 United States, through legislation or executive order, declares
25 that mandatory divestment of the type provided for in this
26 chapter interferes with the conduct of United States foreign
27 policy.

28 Sec. 8. Section 97A.7, subsection 1, Code 2022, is amended
29 to read as follows:

30 1. The board of trustees shall be the trustees of the
31 retirement fund created by [this chapter](#) as provided in section
32 97A.8 and shall have full power to invest and reinvest funds
33 subject to the terms, conditions, limitations, and restrictions
34 imposed by [subsection 2](#) and [chapters 12F, 12H, and 12J](#), and
35 [12K](#) and subject to like terms, conditions, limitations, and

1 restrictions said trustees shall have full power to hold,
2 purchase, sell, assign, transfer, or dispose of any of the
3 securities and investments of the retirement fund which have
4 been invested, as well as of the proceeds of said investments
5 and any moneys belonging to the retirement fund. The board
6 of trustees may authorize the treasurer of state to exercise
7 any of the duties of [this section](#). When so authorized the
8 treasurer of state shall report any transactions to the board
9 of trustees at its next monthly meeting.

10 Sec. 9. Section 97B.4, subsection 5, Code 2022, is amended
11 to read as follows:

12 5. *Investments*. The system, through the chief investment
13 officer, shall invest, subject to [chapters 12F, 12H, and 12J,](#)
14 [and 12K](#) and in accordance with the investment policy and
15 goal statement established by the board, the portion of the
16 retirement fund which, in the judgment of the system, is not
17 needed for current payment of benefits under [this chapter](#)
18 subject to the requirements of [section 97B.7A](#).

19 Sec. 10. Section 262.14, unnumbered paragraph 1, Code 2022,
20 is amended to read as follows:

21 The board may invest funds belonging to the institutions,
22 subject to [chapters 12F, 12H, and 12J,](#) [and 12K](#) and the
23 following regulations:

24 Sec. 11. Section 411.7, subsection 1, Code 2022, is amended
25 to read as follows:

26 1. The board of trustees is the trustee of the fire
27 and police retirement fund created in [section 411.8](#) and
28 shall annually establish an investment policy to govern the
29 investment and reinvestment of the moneys in the fund, subject
30 to the terms, conditions, limitations, and restrictions
31 imposed by [subsection 2](#) and [chapters 12F, 12H, and 12J,](#) [and](#)
32 [12K](#). Subject to like terms, conditions, limitations, and
33 restrictions the system has full power to hold, purchase, sell,
34 assign, transfer, or dispose of any of the securities and
35 investments in which the fund has been invested, as well as of

1 the proceeds of the investments and any moneys belonging to the
2 fund.

3 Sec. 12. Section 602.9111, subsection 1, Code 2022, is
4 amended to read as follows:

5 1. So much of the judicial retirement fund as may not be
6 necessary to be kept on hand for the making of disbursements
7 under [this article](#) shall be invested by the treasurer of
8 state in any investments authorized for the Iowa public
9 employees' retirement system in [section 97B.7A](#) and subject to
10 the requirements of [chapters 12F, 12H, and 12J](#), and [12K](#), and
11 the earnings therefrom shall be credited to the fund. The
12 treasurer of state may execute contracts and agreements with
13 investment advisors, consultants, and investment management and
14 benefit consultant firms in the administration of the judicial
15 retirement fund.

16 EXPLANATION

17 The inclusion of this explanation does not constitute agreement with
18 the explanation's substance by the members of the general assembly.

19 This bill relates to the investment of certain public funds
20 in companies that are owned or controlled by Chinese military
21 or government services.

22 The bill defines "company" as any entity or business
23 association, including all subsidiaries, parent companies, or
24 affiliates of such entities or business associations, that
25 exist for profit-making purposes. The bill defines "direct
26 holdings" in a company as all securities of a company held
27 directly by the public fund or in an account or fund in which
28 the public fund owns all shares or interests. The bill defines
29 "indirect holdings" in a company as all securities of a company
30 held in an account or fund managed by one or more persons not
31 employed by the public fund, in which the public fund owns
32 shares or interests together with other investors not subject
33 to the provisions of this new Code chapter 12K. The bill
34 defines "prohibited company" as a company that is owned or
35 controlled by Chinese military or government services that

1 has been sanctioned by the United States government. The
2 bill defines "public fund" as the treasurer of state, the
3 state board of regents, the public safety peace officers'
4 retirement system, the Iowa public employees' retirement system
5 (IPERS), the statewide fire and police retirement system, or
6 the judicial retirement system. The bill defines "scrutinized
7 company" as any company that is owned or controlled by Chinese
8 military or government services.

9 The bill requires a public fund to identify all scrutinized
10 companies in which the public fund has direct or indirect
11 holdings within 60 days following the effective date of
12 the bill. Additionally, the bill requires a public fund
13 to create and make available to the public a scrutinized
14 companies list and review and update the list on a quarterly
15 basis. The bill authorizes a public fund to review and rely
16 on publicly available information and information from other
17 sources when identifying scrutinized companies. The bill also
18 authorizes IPERS to develop and issue a request for proposals
19 for third-party services to complete the identification of
20 scrutinized companies and the compilation of the scrutinized
21 companies list. The bill requires a public fund to send notice
22 to all companies on the scrutinized companies list on an annual
23 basis informing the company of the requirements of the new Code
24 chapter.

25 The bill prohibits a public fund from acquiring publicly
26 traded securities of a prohibited company. The bill requires a
27 public fund to sell, redeem, divest, or withdraw all publicly
28 traded securities of a prohibited company no later than 180
29 days following the date the company becomes a prohibited
30 company.

31 The bill requires each public fund, within 30 days after the
32 scrutinized companies list is created or updated, to make the
33 list available to the public. Additionally, the bill requires
34 a public fund to make available to the public and file with the
35 general assembly an annual report beginning October 1, 2022,

1 and each October 1 thereafter.

2 The bill provides that, with respect to actions taken
3 in compliance with the Code chapter, the public fund shall
4 be exempt from any conflicting statutory or common law
5 obligations, including any such obligations in respect to
6 choice of asset managers, investment funds, or investments for
7 the public fund's securities portfolios.

8 The bill provides that the provisions related to the
9 creation of a scrutinized companies list, divestment of
10 publicly traded securities of a prohibited company, and
11 reporting shall not apply if the United States Congress
12 or president of the United States declares that mandatory
13 divestment of the type provided for in the Code chapter
14 interferes with the conduct of United States foreign policy.

15 The bill makes conforming changes to Code sections 12.8,
16 97A.7, 97B.4, 262.14, 411.7, and 602.9111.